False Promises: The contours, contexts and contestation of good water governance in Lao PDR and Alberta, Canada.

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Abstract

Good water governance in Lao PDR and Alberta, Canada emerged in different political contexts of, respectively, communism and democracy. Yet both espouse similar principles of participation, transparency and accountability. Drawing on multiple methods, this paper examines how contests over governance affect the adoption of, and mechanisms for, 'good water governance.' It gives particular emphasis to how both scale and context influence, and at times curtail, the promises of good water governance. In both Lao PDR and Alberta, we examine how governance mechanisms have been wielded by what we call closed communities. These communities are part of the dark side of water governance. They espouse good governance principles yet retain political power apart from them. We suggest good water governance is far from guaranteed by particular political systems, new institutions or even legislation.

Introduction

Whether by design or default, water governance regimes leave some water, and some actors, ungoverned. In theory, ungoverned space can provide room for forms of constructive anarchy that address inequities arising from the uniform application of political or ecological norms to complex, diverse systems (Scott 1998, 2009; Smith, 2011). In practice, the promise of "good water governance" often prescriptively replaces one set of norms with others, such as participation, transparency or consensus. The promissory note of good water governance,

however, goes unfunded wherever new norms lack contextual purchase, such as in cases where they are not adequately attached to issues of ecological, political or institutional scale or to prevailing cultural norms (Meinzin-Dick 2007, Ingram 2008). In such cases, ungoverned spaces may provide a wellspring for subtle, even covert options for perpetuating inequitable power relationships. This paper contrasts two vastly different political systems – one democratic, one communist – to explore how the transition to good water governance may create such spaces.

The paper begins by defining good water governance and considers the importance of context in its emergence. It highlights considerations of scale before examining two cases. The first is hydropower development in Lao PDR, a single-party communist state where the government and international community staunchly promote the principles of good governance. The second is the province of Alberta, Canada where many of the elements of good water governance are evident: devolved institutions, stakeholder participation and consensus-building. The data for each case draw from fieldwork interviews in Lao PDR and Alberta, analysis of policy documents and literature reviews. For a complete overview of methods see Matthews (2013) and Schmidt (2012). We examine how power, politics and economics trump accountability, transparency and participation and allow what we call 'closed communities' to wield power in ungoverned spaces that arise within good water governance. Our analysis suggests that good water governance is far from guaranteed by the promises of political systems, new institutions or even legislation. Rather, closed communities use the premise of good water governance as a tool to control ungoverned spaces. In this dark side of water governance, the actors that benefit are those aligned with the agendas that design the space of 'good water governance.'

Defining good governance

Definitions of good governance highlight its inherent complexity, its requisite for order and procedure, and the fact that, in order to be good, certain policy norms are favoured over others. For instance, according to the UNDP (1997, Ch1) good governance is "… participatory, transparent and accountable. It is also effective and equitable. And it promotes the rule of law." The OECD (1995: 14) states that it "… encompasses the role of public authorities in establishing the environment in which economic operators function and in determining the distribution of benefits as well as the relationship between the ruler and the ruled." The World Bank (1994: vii) posits it is as "… epitomized by predictable, open and enlightened policy making; a bureaucracy imbued with a professional ethos; an executive arm of government accountable for its actions; and a strong civil society participating in public affairs; and all behaving under the rule of law."

In line with the shift away from 'command and control' approaches to natural resource management, the literature on water governance posits open formats for stakeholder participation as key to coordinating multiple political and ecological agendas (Holling and Meffe 1996, Durant et al. 2004, Sabatier et al. 2005). In ideal scenarios, good water governance is empowered by the rule of law and participatory norms that are congruent with democratic efforts in institution building (Conca 2006). In this way, good water governance is inconsistent with anarchy because it advocates for lawfulness, procedural rules and systems. Yet, strictly speaking, there is no democratic requirement, as evident in the recommendation of good water governance as appropriate for a range of political systems (Rogers and Hall 2003, Chartres and Samyuktha 2011). This divergence in political systems is accommodated through procedural mechanisms that do not require governments to make distributive judgments amongst the substantive goods held by the different constituent groups represented in deliberative exercises (Dryzek 2000, Mitchell and Parkins 2005). Rather, the government shifts from an arbiter amongst competing ends to 'setting the rules' for effective

procedures (Cosgrove and Rijsberman 2000). In this new format, the 'consensus of the governed' is expected to emerge through procedural exercises such as those of public participation or, more broadly, social learning exercises that are open to those affected by decisions (i.e. Priscoli 2004, Pahl-Wostl et al. 2007).

Regardless of political system, a degree of power sharing is required for meaningful collaboration among public, private and civil-society actors, as well as to promote principles of accountability, transparency and equitable participation. These shifts in power are often met with resistance by existing resource management agencies (Ribot 2004). In addition, as has been well documented, the existence of democratic processes, participation and rule of law are by no means a guarantee because the principles of good governance are subject to interpretation and manipulation by powerful actors (Przeworski and Limongi 1997; Zeitoun and Mirumachi 2008; Menocal 2011). These existing power relations mean that the agendas of powerful actors may support mechanisms that close off, weaken or nullify the principles of good governance regardless of the type of political system in which they arise. As such, understanding transitions to 'good' water governance must be contextualized by previous institutions and networks, which affect its emergence in different political systems.

The emergence of good water governance in Lao PDR and Alberta

Water governance does not begin from a blank slate, and the contextual forces that shape its emergence in a particular place are both internal and external. In this sense, the shift from "government to governance" is not straightforward because existing institutions are internally heterogeneous, negotiated spaces (Reuss 2008). Likewise, political and economic pressure exerted by external networks – international NGOs, development aid institutions and other states – shape the aims and rationale of water governance (Bakker 2010). In this section we situate water governance in, respectively, Lao PDR and Alberta, Canada. The purpose of

doing so is to enable an analysis of how good water governance is affected by existing power differentials.

A key dimension of good water governance is the shift in power required to enable alternate scales of decision making. The sites in which such shifts are made – laws, participation conditions and institutions – are affected by existing power differentials that may or may not empower alternate scales of decision making. This can lead to a scalar disconnect. For instance, environmental laws can be passed, but without funding, institutional empowerment or meaningful participation for their fulfilment, such laws are ineffective. In this sense, a scalar disconnect arises wherever a mismatch exists between shifts in power required for good water governance and efforts to coordinate and empower new governance mechanisms.

Existing institutional scales, themselves constructed and contested, frame the types of conflicts and cooperative spaces that good water governance addresses. Scale is also used as a tool within the governance process to legitimise or delegitimise goals and agendas (see McCarthy 2005). For example, purportedly 'natural' scales, such as the watershed or river basin, are often used to realign political, economic and ecological decision paths and institutions. But these scales are rarely (if ever) neutral. Rather, they provide avenues for encrypting new power relations into water governance arrangements (Cohen 2012; Warner, Wester & Boldin 2008). Further, this re-scaling allows governance to be framed within a specific political system, thereby allowing the factors, crises and political economy affecting that system to affect institutional design (Bakker 2004, Castree 2008). This scalar framing shapes governance processes in ways that empower certain actors and knowledge or disempower others (Castells 1996; Smith 1984; Swyngedouw 2001).

Emergence of water governance in Lao PDR

In Lao PDR, from its outset, the emergence of governance and its goals have been shaped by geopolitics and technocratic ideas of water management. Lao PDR is a tightly controlled single party communist state that is a focal point of hydropower development in the Mekong Basin due to its numerous tributaries, mountainous geography and the Government of Lao's (GoL's) strategy to develop hydropower as a path out of poverty (Vientiane Times 2012). Good water governance in Lao PDR emerged as a process to introduce rules and norms to water management and hydropower development. Good water governance terminology is used extensively by donors and the GoL when discussing hydropower. For example, in a speech in 2009, the Director the ADB's Sustainable Infrastructure Division highlighted the Nam Theun 2 as an example of good water governance at work in Lao PDR (ADB 2009). The emergence of the good water governance agenda in Lao PDR has been largely shaped by external actors and the development history of the Basin.

From 1957 to 1995, the Mekong Committee and later the Interim Mekong Committee were responsible for the water governance agenda of the Mekong Basin. The Mekong Committee was a UN backed initiative that emerged in the region following a drive for development that preceded the 1954 Geneva Conference that granted Cambodia, Laos and Vietnam independence from France. The drive for development in the Basin conformed with the rise of the Global North's hydraulic mission, which focused on promoting cooperation around hydropower development and irrigation as essential to poverty alleviation (Wheeler 1970). This agenda also largely ignored or downplayed the potential environmental and social impacts of water infrastructure developments (Halbertsma 1987).

The evolution of the Committee's agenda was heavily influenced by the United States' regional geopolitical strategy. During the Cold War, the Mekong Basin was considered an important battleground between communism and democracy. By encouraging economic growth through natural resource development, the U.S. attempted to curtail the spread of

communism across the region (Chi 1997, Biggs 2006, Sneddon 2012). Due to political turmoil and war very few of the Mekong Committee and the Interim Mekong Committee's plans materialized.

In 1995, the Mekong River Commission (MRC) was established with Thailand, Lao PDR, Cambodia and Vietnam as members.[1] The MRC replaced the Mekong Committee and removed the UN from its leadership position in the organisation. The MRC brought with it a different set of governance objectives that moved away from the heavy focus on hydropower development to one that contained regionally accepted principles based on 'sustainable development, utilisation, management and conservation of the water and related resources of the Mekong River Basin' (MRC 1995).

These new governance objectives, although ratified by the member states, were strongly influenced by outside donors. The emergence of water governance by the MRC thereby drew from an international trend towards a new 'softer development agenda' focusing on good governance issues that emerged in the 1980s and were heavily promoted from the mid-1990s (McCawley 2002). Under the MRC, this new development agenda emphasised cooperation around scientific studies, capacity building and environmental protection (Jacobs 2002). For donors, it provided a strategic opportunity to open dialogue spaces with the region's emerging markets. Further, it allowed them to meet aid objectives by encouraging good governance principles in the Mekong's future water management (McCawley 2002). For the governments and economies of S.E. Asia, the MRC was a source of much needed funding and economic stimulus. From 1990-1995, net Overseas Development Assistance flows to Thailand and Indochina rose by approximately 400% from $422 million to $1.66 billion USD (OECD 1997).

[1] China and Myanmar joined as dialogue partners in 1996.

From the 1990s onwards, The Asian Development Bank (ADB) and the World Bank were also promoting a brand of water governance more closely aligned with neo-liberal policies encouraging market-led development of natural resources. A centrepiece of this agenda was the implementation of the Greater Mekong Subregion (GMS) Programme, a scheme strongly focused on connectivity of markets and economies and private sector investment in hydropower development to advance economic growth and reduce poverty within the framework of good governance (Middleton et al. 2009).

In conjunction with the GMS programme, the World Bank and the ADB supported Lao PDR in developing and improving a number of its environmental and social policies. These policies espouse good governance principles. For example, the National Policy on Environmental and Social Sustainability in the Hydropower Sector, calls for very high levels of disclosure, for the rights of 'project affected people' to be protected and for free, prior and informed consent (NPES 2005).

One consequence of externally promoted good governance agendas in Lao PDR is a scalar disconnect between these agendas and those of the tightly controlled Lao state. In the case of the MRC, international donors' good water governance interests, such as holistic, participatory water management and monitoring and evaluation programs, are tolerated by the Lao government to demonstrate their commitment to these processes, but at the same time government actions continue to focus on top-down, non-transparent decision making and rapid hydropower development (Suhardiman et al. 2012; Matthews 2012). Meanwhile, the World Bank and ADB's assistance with domestic policies and the Greater Mekong Subregion Program have scaled good water governance principles alongside a regional vision of electric interconnectivity and hydropower development, thereby allowing the Lao Government to manipulate these principles while remaining entrenched in autocratic rule.

Emergence of water governance in Alberta

In contrast to Lao PDR, the province of Alberta, Canada has been described as a "water democracy" (Bakker 2010: p. 171). This is primarily due to its 2003 *Water for Life* strategy and shift to watershed governance (Alberta Environment, 2003). But when Alberta became a province in 1905, it was set within Canada's constitutional monarchy wherein the division of powers between federal and provincial governments frequently found friction over water.

The first water law governing Alberta was the federal 1894 *North-west Irrigation Act* (NIA). The NIA was designed to support Canada's national project of securing sovereignty through western settlement. Under the NIA, water rights did not function like private property and were granted appurtenant to land (Percy, 1977). In this way, water rights secured water to the interests of Canada's political community (see generally Sax, 1994). As William Pearce (1891), a key architect of the NIA stated,

> "Water in a country dependent on irrigation is so precious that it is a duty the Government owes to the community, or, in other words, that the community owes to itself, to prevent its being captured by monopolists and sold to the farmers, who must buy it at any cost, at extortionate prices."

The notion that a political community exists prior to the state is a key dimension of what Taylor (2004) terms the "modern social imaginary." Critically, however, who counts as part of this community is circumscribed by conditions of participation. For instance, the NIA relied heavily on international experience, particularly the United States, where the doctrine of prior appropriation (first in time, first in right) had evolved to prevent *laissez-faire*

capitalists from gaining monopoly control of water (Schorr 2005). Subsequently, the NIA created a bureaucratic system for administering prior appropriation rights and declared government ownership of water (Wolfe 1992). In securing water to Canada's national interest, indigenous First Nations were entirely excluded from the NIA (Phare 2009, Matsui 2009); a situation complicated when water ownership passed to Alberta in 1930 while responsibility for negotiations with First Nations remained federal (Bartlett 1986). The federal government also retained responsibility for fishing and protection of navigable waters.

In 1931, Alberta passed the *Water Resources Act*, which carried over the NIA virtually unchanged. After fits and starts with irrigation, water development increased dramatically (de Loë 2005, AIPA 2002, Armstrong, Evenden & Nelles 2009). Meanwhile, the federal government was involved in settling land grants it had promised to railroad developers during the western settlement period (Palmer and Palmer 1990). This on-going federal presence, coupled with federal control over funding for water infrastructure (i.e. dams), led to animosity with the provincial government (Marchildon 2009). Ultimately, federal land grants formed the basis for 13 irrigation cooperatives that now hold rights to ~75% of total water allocations in southern Alberta.

Alberta gained control of water infrastructure in the early 1970s. At the same time, water demands for irrigation, hydroelectricity, industry and southern Alberta's growing municipal populations exposed shortcomings of laws designed to serve western settlement (Percy 1986). But growing environmental concerns and First Nations groups seeking redress for long-denied rights also impacted water politics and confronted Alberta's tradition of meeting demand by increasing supply. These issues coalesced in 1986, when Alberta began construction of the Oldman Dam

The Oldman Dam proved the catalyst for watershed governance in Alberta (see Glenn 1999). First, a civil society coalition challenged the dam, eventually winning a stop-work order from Canada's Supreme Court until environmental assessments were completed to ensure the protection of navigable waters. The federal government, however, refused to enforce the order because of tensions with Alberta and other provinces regarding autonomy over resources. In addition, First Nations challenged the upstream flooding to their land by the dam through direct action – a blockade and attempt to reroute water – and legal opposition. Ultimately, the dam was completed on the tenuous premise that to leave it partly built was a public safety hazard.

After the Oldman Dam controversy, the first water allocation limits were established in southern Alberta – Regulation 307/91 – and the government began public consultations for what became the 1996 *Water Act*. It came into force in 1999 and created provisions for watershed governance and what became the 2003 *Water for Life* strategy. As considered below, Alberta's foray into "good water governance" is set within the antagonistic politics that shaped the competing scales of influence – federal, provincial, indigenous, civil – that water governance mechanisms are addressed to.

Emergence of water governance in context

In the above cases, water governance emerges in different geopolitical contexts, yet Lao PDR and Alberta share similarities regarding how scalar disconnects arise: (1) Multiple actors with varying agendas influence water governance as a response to extant political systems. Pressure can come externally, as in Lao PDR's experience with international actors, or internally, as in Alberta's experience with different constituencies. (2) Water governance concerns are framed primarily (if not solely) in reference to the *existing* system of power

distribution. Thus, water governance emerges to address particular, situated concerns. (3) The path toward water governance must be negotiated within the context of competing demands where laws, international agreements or court decisions are not guarantees. These features provide an entry for exploring how new mechanisms encrypt power differentials in the transition to water governance.

Mechanisms impeding governance

Sneddon and Fox (2007) remind us that promoting meaningful mechanisms to enable good water governance is a central challenge in its implementation. The context and power relations in which good water governance emerges affects, but does not entirely constrain, the actual mechanisms put in place. These are constantly negotiated amongst actors both in their interpretation of previous arrangements and in the development of new criteria, processes and formats for making water governance operational. In this section we contrast two political systems that promote the principles of good water governance to consider how power differentials are inscribed into the mechanisms of good water governance itself. The governments of Lao PDR and Alberta both 'accept' good water governance principles. During the implementation of these principles, however, governments subjugate and undermine them by carefully controlling the ways that power is devolved. A lack of meaningful participation, controlled civil society, corruption and weak capacity all contribute to the circumvention of good water governance. Our analysis does not suggest that these issues reduce to power alone, but rather shows how cooperative exercises can also have the effect of shaping the reach of good water governance mechanisms.

Governance mechanisms in Lao PDR

Mechanisms within Lao PDR that eschew good water governance agendas, at both the state and regional scale, stem from the entrenched political and economic nature of hydropower development. Hydropower development in Lao PDR is a multi-billion dollar industry involving dozens of actors and operating within a political system with little or no transparency in decision making or accountability to its citizens or the environment.

Although Lao PDR is labelled a single party communist state, it is perhaps better understood as an "authoritarian one-party state, in which the Party presides over a transitional market economy" (Stuart-Fox 2008: 65). The state offers little transparency in water resources decision making. Responsibility for hydropower is vested with a host of government departments; however, ultimate decision making rests with the 11 member Politburo. Members of the Politburo are elected from and by the Central Committee of the Party at each Party Congress. The only legal political party is the Lao People's Revolutionary Party. There are no free elections and any political dissent, including small gatherings or demonstrations, is strictly prohibited (Stuart-Fox 2008).

The same laws which criminalise political dissent strictly regulate the existence of grassroots civil society. In Lao PDR domestic civil society is almost non-existent (Case 2011). International NGOs are permitted, but operate under strict government rules. Recent cases are stark reminders of the government's intolerance of criticism or purposed threats (see Pearce 2013).

The lack of grassroots civil society and a controlled international NGO presence has shaped how participation emerges within good water governance agendas. For example, participation was earmarked as a key requirement of the Nam Thuen 2 (NT2) dam development process; considered a flagship project of the ADB and World Bank (Porter and Shivakumar 2011). The NT2 implementation plan required that all stakeholders "be consulted in a meaningful

way" with participation and consultation one of the five key themes (NTPC 2004:11). What resulted, however was that the tightly controlled nature of the Lao state limited meaningful participation during the process (Lawrence 2011; Mirumachi and Torriti 2012). Singh (2009:493) states that participation during the process emerged as "a site for various forms of contestation." With no local NGO participation and very little input from locally affected people, the World Bank's participation meetings produced the rhetoric of good water governance and a guise for participation, which in reality enabled both the World Bank and the GoL to absorb good governance principles into business-as-usual decision making (Sing 2009).

A lack of capacity within the government to regulate hydropower development and private sector investment is another impediment to good water governance. Capacity issues include rubber stamping of weak environmental impact assessments, signing of inequitable contracts, and poor enforcement of laws and policies. For example, the Nam Mang 3 and Hoyay Ho dams were both built without any impact assessment (Khamin, 2008). The ADB (2003: 3) and the World Bank (2004: 8) have both raised concerns over these issues in reports stating, respectively, that "the Government's capacity to implement large-scale complex hydropower projects still remains a major concern" and "a lack of implementation capacity" is a serious concern within the GoL.

Corruption[1] has been identified as another impediment to good water governance. Haas (2008) found that hydropower is a high-risk sector for corruption because it has huge budgets, complex administrative systems and multiple actors, which offer many opportunities for corrupt practices to emerge. Although difficult to detect and often circumstantial, corruption has been studied as a major issue in Lao PDR (Stuart-Fox 2006, 2011). Lao PDR was ranked 160th out of 183 countries in the 2012 Index of Transparency International's Corruption Perceptions, suggesting it was then one of the most corrupt countries on earth.

The same index ranks Laos' public sector corruption score at 21/100 (with 100 being perceived as very clean). This score shows the extent to which citizens have confidence in and abide by the rules of society – especially contract enforcement, property rights, the police and courts. As illustrated by Simpson (2007), in the hydropower sector corruption takes the ordered norms of good water governance and dissembles them by allowing developers to bypass environmental regulations. As one long-time hydropower consultant stated: "Corruption is an established part of doing business in Laos, it is used throughout the hydropower development process as a way of circumventing policies and laws."

The normalization of corruption in Laos reveals how the principles of good governance must be seen in the context of the broader political systems in which they are taken up. Here, as Mouffe (2005) argues, the politics of defining legitimate actors, transactions and institutions politics should be seen as arising within a contested field, what she terms "the political," and not as ultimately explained by the promises of deliberative democracy that underlie theories of good governance. In this sense, the realpolitick of Lao PDR seems to prevent good water governance principles from being actualised, yet these principles remain a key part of both the MRC and the GMS programme. The decision by the GoL to proceed with the Xayaburi dam amidst downstream objections and before the MRC had deemed completed the Prior Notification Prior Consultation Process demonstrates that, despite agreeing to good water governance principles, the government is often able to manipulate governance to suit its agendas. The Don Sahong Dam seems to be proceeding along similar lines with no released EIA or transparency in decision making. The remarks of one interviewee can help us to unsettle the idea that "corruption" itself can do analytical work apart from the specific norms and spaces through which discourses of good governance are filled out:

"The system of governance of Lao PDR is not easy to understand. The idea that laws could not have universal and consistent applicability will be hard to grasp. Nevertheless the way

Comment [JS1]: Nate, if you think the way I've repositioned this paragraph makes sense, then we could perhaps move the citations that are currently in the footnote on corruption into this sentence, or better, add a sentence on Andersson and Heywood and then use this tremendous quote more fully to our advantage to show how we cannot universalize laws – and hence neither 'corruption'.

the state is operated is best appreciated by recognising it is not a society regulated by laws. Authority stems from power, not institutional position. Power varies from place to place and time to time. The roots of power are essentially personal and material. The checks and balances which keep the system generally from the extremes of anarchy or dictatorship are the limitations of the reach of power across sectorial and territorial boundaries."

The socio-ecological implications of Lao PDR proceeding with hydropower development under the banner of good water governance are evidenced by numerous studies. Rapid hydropower development across the Mekong Basin is estimated to dramatically reduce fisheries and ecosystem services thereby impacting the livelihoods and culture of millions of people in the region (Barlow et al. 2008, Baran and Myschowoda 2008, Grumbine and Xu 2011). Ziv et al.'s (2012) scenario analysis of 78 tributary dams operating in the Basin found that they would impede migratory fish from spawning, change hydraulic flows and thereby decimate fish productivity and biodiversity. In this way, the mechanisms that create or protect ungoverned spaces for powerful actors and regimes can arise within a label of 'good water governance' in ways that are unsustainable in the long term. This also holds true in the Alberta case.

Water governance mechanisms in Alberta

Water governance in Alberta emerged from conflicts amongst civil-society coalitions, First Nations and the federal government. Across these scales, power inequities persist under the guise of "good water governance" principally because Alberta's new governance arrangements are designed to have no regulatory authority. The problem here is not so much corruption as it is the coercive role of Alberta's government, which retains all decision making power. This allows power differentials to persist despite the putative claim that

Alberta's *Water for Life* strategy provides the possibility for a "new water ethic" (Alberta Water Council 2007: 1).

After the Oldman Dam controversy, civil society actors organized into river-keeping associations to advocate for water protection. As noted, Alberta had started limiting water allocations, but many of its southern rivers were and remain over-allocated – withdrawals peak at 118% of the median annual flow of one river (Alberta Environment 2005). These civil society networks matured through the 1990s and eventually provided the model for watershed planning and advisory committees (WPACs) when Alberta began drafting *Water for Life* in 2001. Coincidentally, southern Alberta was also experiencing its worst drought since western settlement. Subsequent government reports predicted a return to stable flows while independent studies found the 20th century abnormally wet, with climate change predicted to exacerbate water scarcity (compare: Alberta Environment 2004, Rood et al. 2005, Schindler and Donahue 2006).

Water for Life was adopted in 2003 and soon after the government requested that, where they existed, civil society coalitions become WPACs for their watersheds. After striving for a decade for increased political voice, the potential for new cooperative relationships was attractive to these coalitions even without regulatory power. Each WPAC is unique but all operate on principles of consensus-building amongst multiple stakeholders. In the transition from civil society coalition to WPAC, however, difficulties arose as coalition funders backed out because they did not wish to finance government policy. Initially this did not pose a problem because WPACs were financed through government grants. Later, the model shifted to contracts that specified deliverables and conditions. This stranded civil society in a dependent relationship on government. In this way, good water governance curtailed civil society and its ability to hold the government to account. As one interviewee stated, "…if we're just a contract deliverer for the province, that's not a tremendous reason for existing."

Also after the Oldman controversy, legal negotiations began with the Peigan First Nations. The final federal settlement did not acknowledge First Nations right to water, but required the relinquishment of such rights just in case they were later determined to exist, such as in a court challenge (Phare 2009). Provincially, First Nations challenged the water management plans approved under Alberta's new laws. The case, *Tsuu T'ina Nation v. Alberta* (2010), asked whether the government had met its constitutional duty to consult First Nations on plans affecting them. While the court ruled in favour of Alberta, documents leaked from the proceedings – including government correspondence and what became known as the Gartner Lee Report (2006) – suggested new water plans would adversely affect ecosystems and that federal officials had removed themselves from water governance in Alberta over ecological concerns.

The failure to adequately integrate ecological reference points into new governance arrangements was exacerbated by the closing off of other knowledge sources for governance networks. For instance, First Nations participation in WPACs is intermittent in many cases and non-existent in others despite many governance stakeholders' desire to incorporate the traditional ecological knowledge of First Nations. One reason for this disconnect is the WPAC funding mechanism. As a board member for one WPAC stated,

> "The Government of Alberta contracts – they provide us with funding – state that all of the input that comes through that funding, and that project, becomes the property of the Government of Alberta and with Traditional Ecological Knowledge that becomes a bit of a problem for us, so we really couldn't take that funding."

Unwilling to consider ecological baselines or to allow First Nations to retain ownership of traditional knowledge in water governance exercises, Alberta commissioned three reports in 2009 on the feasibility of a province-wide water market (Minister's Advisory Council 2009,

Alberta Water Council 2009, AWRI 2009). A small market had existed in southern Alberta since 2002, but a province-wide market became a prominent point of contention given the large industrial players in Alberta's energy sector and the existing distribution of water licenses to southern irrigators. In 2010, a new civil society coalition formed and commissioned a report on the limits of water markets and the need for water governance to be reformed in line with ecological findings and norms recognizing First Nations rights (Schmidt 2011). The new coalition effectively stalled Alberta's consultations on a province-wide market. These consultations subsequently morphed into a broader inquiry into "water conservation" in 2012-13.

Responses to Alberta's province-wide market proposal also reveal how Alberta's water governance regime is oriented toward southern issues despite significant challenges elsewhere, particularly the large energy sector of northern Alberta's Oil Sands. Here, again, tensions between federal and provincial governments abound, in this case over water monitoring programs. In 1997, the Regional Aquatic Monitoring Program (RAMP) was established as a multi-stakeholder platform for determining the effects of oil sands development. But the program was widely indicted for lacking scientific rigor and independent tests that found, contra RAMP, that oil sands activity degraded water quality (Ayles, Dubé & Rosenberg 2004, Kelly et al. 2009, Kurek et al. 2013).

The WPAC model was also inadequate for Alberta's north for several reasons. First, it was premised on existing civil-society networks that did not exist in the North or, if they did exist, were hesitant to become WPACs after witnessing the loss of independence of southern coalitions. As a result, creating new WPACs required a significant amount of trust building at precisely the time when debates over RAMP were peaking and both government and industry claims undermined their credibility as stakeholders. Second, northern WPACs had to carve out a space for water governance within a crowded policy landscape in which many other

actors held regulatory authority that WPACs could not, by design, ever attain. Especially significant in this case was a second, distinct set of 'governance' considerations that re-scaled land use planning under a strong regulatory regime in ways that did not conform to the watershed boundaries used by northern WPACs in the oil sands region. As Cohen and Bakker (forthcoming) suggest, the combination of these land and water re-scaling practices in Alberta cannot be divorced from its broader political economy. Finally, the smaller overall population yet higher proportional First Nations population in Alberta's north, coupled with its larger geographical area, were not considered in governance arrangements. This made coordinating WPAC start up more difficult and favoured actors with the means to participate in the design of emerging institutions.

Re-assessing good water governance

Despite contrasting political systems, both the Lao PDR and Alberta governments espouse the principles of good water governance. In both cases, a disconnect arose between prescribed principles and the ways power differentials, along with contextual and historical contingencies, figured into what good water governance was designed to achieve. In Lao PDR, external forces moulded good water governance and re-scaled governance alongside external and internal political and economic agendas. The MRC's governance agenda of cooperation, capacity building and environmental protection differs from the ADB and World Bank's governance agenda of private sector led hydropower development. In Alberta, good water governance emerged from the context of domestic conflict surrounding constitutional divisions of power between the federal and provincial government. These divisions were exploited to orient water governance to the existing political system rather than to entertain alternate perspectives on the political system itself, such as those available from the

viewpoints of ecology or First Nations. In these ways, the promise of "good water governance" to open decision making to a broader community of participants actually enclosed existing power relations in new institutions.

In both instances, powerful actors operating in the spaces where good governance is implemented wield power in 'closed communities' despite the 'open, transparent and participatory' norms purported to structure power relations under good water governance. "Good water governance" has been used in these cases as a tool to create these closed communities by undermining civil society, excluding alternative sources of knowledge and supporting and legitimising business-as-usual decision making. These closed communities operate on the dark side of water governance. They use the premise of good governance norms and systems as a form of control. In Lao PDR and Alberta, mechanisms within the state that foster the exclusion of alternate criteria implicitly favour those with power over water. In Lao PDR, these mechanisms include weak rule of law, a culture of corruption, a lack of capacity within the government and no grassroots civil society. In Alberta, mechanisms emerged through government imposed institutional conditions that manipulated networks formed by civil society in ways that brought them under the control of the government itself.

Another lesson to be drawn from contrasting these cases is that governance mechanisms are designed in relation to an existing political system. The mechanisms that incorporate findings from such things as Environmental Impact Assessments in Lao PDR or traditional ecological knowledge in Alberta grant a privileged role to the same actors who hold power over the design of governance mechanisms themselves. This buffers these mechanisms from undergoing meaningful change because it makes conformance to governance mechanisms a condition for participation. For instance, First Nations in Alberta (and elsewhere in Canada) must articulate their knowledge claims in the language of the state as a condition for

participation. And this denies the cultural procedures and substantive goods they hold to as a distinct part of their rights to self-determination (see also Tully 1995). In Lao PDR, decisions to bypass consultation procedures are equally brazen, if less subtle.

Regardless of the political system in which it emerges, the guise of good water governance and the mechanisms behind it do more than support powerful interests. Where mechanisms undermine civil society, circumvent meaningful participation or stymie the devolution of power, good water governance can subvert prospects for sustainable development in the future by promising procedural norms that do not allow for alternate perspectives on substantive goods and reinforce short-term decision making. In the process, the re-scaling of water governance to "watersheds" or "river-basins" may appear to be a potential avenue in which to coordinate different substantive goods but can actually fracture future prospects for addressing them. Such is the case where development is green-lit that may push social or ecological systems beyond critical thresholds or which make 'good water governance' instrumental to broader concerns of political economy.

In Lao PDR, a lack of accountability and transparency in the communist political system allows governments to welcome good governance within the spaces it subjugates. At the same time it creates an environment where the government is supported by international actors and good governance agendas, but in reality hydropower is managed in unsustainable ways that benefit the region's elites. In Alberta, good governance is promoted by a democratic government as a part of a new water ethic and yet it has weakened participation of different political communities, such as civil society, while continuing to exclude others, such as First Nations. In both cases, the promise of good governance has gone unfulfilled due to the way that ungoverned spaces have been closed off from contest through mechanisms that exploit the context in which good water governance arises.

Conclusion

The implications of the power that closed communities wield on the dark side of good governance, and its tendency to support short-term gains over long-term sustainability, are potentially far reaching. They extend beyond local impacts into the fabric and discourse of decision making. Moreover, they reveal as illusory the notion that good water governance can begin from prescriptive principles that are then applied in a procedurally neutral manner to heterogeneous and contingent histories and institutions. Once these contexts are described, and their influence on the emergence of different governance mechanisms identified, a more nuanced explication of how "good water governance" is interpreted and incorporated within existing power relationships is made available. It is only by recognising that the politics of good water governance are never neutral that its promotion can be considered for whether it presents a fair, equitable and open model for meeting the challenge of sharing power over, and ultimately across, the multiple different practices affecting water use decisions.

Notes

[1] Although a discussion on corruption is not the focus of this paper, it should be noted that corruption must also be understood critically and not just as a product of the global South. The 2008 global financial crises, for example, was a window into the pervasiveness of fraud, statistical invention and other corrupt practices across democratically governed and supposedly accountable and transparent states and systems (Lewis et al. 2010). The idea that economic development is paralyzed by corruption has been contested by Moran (1998), Kang (2002) and others. Brown and Cloke (2004), usefully state that like good governance, the accepted definitions and measurements of corruption are often influenced by western norms and values. And as Andersson and Heywood (2009:750) argue "In practice, many of the generic definitions of political corruption which underpin the approach of international anti-corruption agencies are based upon an implicit understanding of 'proper' politics as being Western-style liberal democracies." Andersson and Heywood (2009:750) also point out that good governance is seen as the "keyword in fighting corruption" and its emergence has been partially in response to a global movement pushed forward by actors such as the World Bank as a precondition for strong liberal and private-sector led markets.

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